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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,295	01/23/2002	Erhard Schreck	3123-424 / 20011.03	9782

7590 10/09/2003

The Law Office of Steven G. Roeder  
5560 Chelsea Avenue  
La Jolla, CA 92037

EXAMINER

KLIMOWICZ, WILLIAM JOSEPH

ART UNIT	PAPER NUMBER
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2652

DATE MAILED: 10/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/056,295	SCHRECK ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	William J. Klimowicz	2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-80 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) 1-80 are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a)  The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . | 6) <input type="checkbox"/> Other: _____                                    |

*Election/Restrictions/Election of Species/Sub-Species*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 77-80, drawn to a method of manufacturing an asymmetrical storage disk, classified in class 264, subclass 1.7, 1.33, etc.
- II. Claims 1-76, drawn to an asymmetrical storage disk used in a disk drive, classified in class 360, subclass 135, 97.01, etc.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the asymmetrical disk can be made by a process such as stamping or molding an asymmetrical disk second side, etc.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention:

Specie I. Figures 2C, 2D drawn to an asymmetrical disk having radially disposed stiffening members.

Specie II. Figure 2E drawn to an asymmetrical disk having stiffening members disposed on a second side and having layers coating the second side, such that the second side is substantially flat.

Specie III. Figures 2F-2I drawn to an asymmetrical disk having a completely flat side, with no radially disposed projecting members.

Specie IV. Figure 3A drawn to an asymmetrical disk having concentrically spaced tubular-shaped stiffening members.

Specie V. Figure 3B drawn to an asymmetrical disk having spiral-shaped stiffening member.

Specie VI. Figure 3C drawn to an asymmetrical disk having an arc-shaped stiffening members.

Specie VII. Figure 4A drawn to an asymmetrical disk having a damping layer.

Specie VIII. Figure 4B drawn to an asymmetrical disk having a damping layer and a constraining layer.

Specie IX. Figures 5A, 5B drawn to an asymmetrical disk having a plurality of projections.

Specie X. Figure 6 drawn to an asymmetrical disk having a balance modifying supplemental layer.

Specie XI. Figure 7A drawn to an asymmetrical disk having an adsorption layer.

Specie XII. Figure 7B drawn to an asymmetrical disk having an adsorption layer and a diffusion layer.

Additionally, after electing one of Species I-XII, the Applicant is further required to elect one of the following subspecies as may be pertinent to the elected Species, *supra*.

Sub-specie A. drawn to an asymmetrical disk wherein the second side of the disk has a different mass than the first side of the disk.

Sub-specie B. drawn to an asymmetrical disk wherein the second side of the disk has a different thickness than the first side of the disk.

Sub-specie C. drawn to an asymmetrical disk wherein the second side of the disk has a different density than the first side of the disk.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed Species I-XII and, as may be pertinent, a single disclosed Sub-specie A-C for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant should further identify any claims that may be generic to the Species and/or sub-species.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to Steven G. Roeder on September 24, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (703) 305-3452. The examiner can normally be reached on Monday-Thursday (6:30AM-5:00PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

*WJK*  
William J. Klimowicz  
Primary Examiner  
Art Unit 2652

WJK  
September 22, 2003